REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed May 27, 2003. In the Office Action, the Examiner notes that claims 1-18 are pending, of which claims 1-18 are rejected. By this amendment, claim 1 has been amended and claims 2-18 continue unamended.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that the Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

REJECTIONS

35 U.S.C. §103

Claims 1-18

The Examiner has rejected claims 1-18 as being obvious and unpatentable under the provisions of 35 U.S.C. §103(a). In particular, the Examiner has rejected claims 1-18 as being unpatentable over Pocock et al. (U.S. Patent No. 5,014,125, hereinafter "Pocock") in further view of Swenson et al. (U.S. Patent No. 6,064,380, hereinafter "Swenson") and Garfinkle (U.S. Patent No. 5,400,402, hereinafter "Garfinkle"). Applicants respectfully traverse the rejection.

Pocock fails to teach, disclose, motivate or suggest Applicants' information distribution system as recited in Applicants' independent claim 1. In particular, Applicants' independent claim 1 recites:

> "In an interactive information distribution system utilizing an open session to provide requested information, a method comprising:
> (a) receiving a title selection request from a set top terminal; and
> (b) in the case of a first request for said title by said set top terminal, performing the steps of:
> opening a session with said set top terminal;

monitoring, at a session control manager, a use time associated with said requested title;

providing said requested title to said set top terminal; and

(c) in the case of a previously terminated session with said set top terminal existing, performing the steps of:

restoring said terminated session; and

providing said requested title to said set top terminal if said use time associated with said requested title has not expired." (emphasis added)

The test under 35 U.S.C. § 103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The combination of Pocock, Swenson, and Garfinkle fails to teach or suggest the Applicants' invention as a whole.

In particular, Pocock discloses "[t]o initiate a viewing session, the viewer activates the user terminal 14 by depressing the appropriate keys on the remote terminal 16. Such a result may be accomplished, for example, by depressing an on/off switch on the remote control. In addition, or more preferably in lieu of depressing the on/off switch, the viewer depresses keys which identify the particular type of presentation that is desired to be initially viewed." (see Pocock, Column 9, Lines 22-29). "Once the logging and initiation procedure has been completed, the navigation session task selects and opens a viewing session with a video display task VDT (FIG. 6), which communicates with a DVS control unit 40. The video display task is supplied with the user terminal address and the transmission path ID for the session." (see Pocock, Column 10, Lines 54-59). Pocock is completely silent respect to the Applicants claimed "monitoring, at a session control manager, and a use time associated with said requested title," and "restoring a previously terminated session and providing a

requested title to a set top terminal if the use time associated with the requested title has not expired.'

Furthermore, Swenson and Garfinkle fail to bridge the substantial gap as between Pocock and Applicants' invention. In particular, Swenson discloses "if a user click on the "Stop & Save Position" button, the file being played will be stopped and the position at which the file was stopped will be saved to persistent memory such the user's disk drive or in a data file associated with the user's browser program and stored on the user's hard drive. The position at which the multimedia presentation was terminated may also be transferred to the server or other persistent memory location for storage in persistent memory associated with the multimedia file or with other user data. (see Swenson, Column 4, Line 65 to Column 5, Line 7)

Furthermore, Garfinkle discloses "a control system at the customer site that operates independently of the central station once the program has been down-loaded. In one embodiment, the control system erases or scrambles the stored program after it has been viewed a predetermined number of times (e.g., once), and in another embodiment the program is erased or scrambled after a predetermined interval (e.g., 24 hours). In one embodiment the stored program is erased after a predetermined interval or after a predetermined number of accesses or any combination thereof based on fixed criteria stored at the customer site. In another embodiment, the down-loaded data includes instructions that specify and controls the number of times the stored data may be accessed, or the period during which the stored material may be accessed, or any combination thereof. In each embodiment, a control system at the customer's site limits further access to the stored program after the limit has been reached." (see Garfinkle, Column 2, Lines 20-37).

The combined references fail to teach or suggest the Applicants' claimed features of "monitoring, at a session control manager, a use time associated with the requested title." Even if the two references could somehow be operably combined, the combination would merely disclose initiating a video session, downloading requested content from a provider to a set top terminal, storing the downloaded content at the set top terminal, and either erasing or scrambling the stored content after it has been viewed for a predetermined number of times or after a predetermined interval. Thus,

the teachings of the references are completely different than the Applicant's invention. Specifically, Garfinkle teaches that the use time associated with the requested title is determined at the set top terminal. By contrast the Applicants' invention monitors, at a session control manager, a use time associated with the requested title. The session control manager shown in FIG. 1 of the Applicants' invention is part of the provider equipment, as opposed to the customer equipment (i.e., set top terminal). Therefore, the combined teachings of Pocock, Swenson, and Garfinkle are different from the Applicants' claimed invention, since they fail to teach or suggest the Applicants' invention as a whole.

Furthermore, the combined teachings fail to solve the problem that the Applicants' invention solves. In particular, the combined references solve a problem of permitting the use of a program stored at a customer site commensurate with a fee or other arrangement with the customer. That is, the combined references address the problem of limiting the use of a downloaded (i.e., stored) program. The combined references solve that problem by either scrambling or erasing such downloaded content after the predetermined interval or predetermined number of accesses by the requestor have occurred.

By contrast the Applicants' invention solves the problem of managing open sessions between a set top terminal and the provider equipment. More specifically, In order to support such user interactivity, the concept of an open session has been implemented within the system. When a title is purchased an open session is created. The open session is associated with the account that purchased the title and stores the current use and view time available for a title. The view time is the actual amount of time the title is available for a user to watch a title. The use time is the actual time a user is allowed to physically watch a title. For example, the use time may be two times the length of the title and the view time may be 24 hours, meaning a title can be watch a total of two times in the next 24 hours. The maintenance of the open session is a joint effort between the video session manager (VSM) 106 and the network management system (NMS) 114 described above with respect to FIG. 1." (see Applicants' specification, Page 26, Lines 12-23). Accordingly, since the combined references fail to teach or suggest "monitoring, at a session control manager, a use

time associated with said requested title," the combined references fail to teach or suggest the Applicants' invention as a whole.

As such, Applicants submit that independent claim 1 is patentable under 35 U.S.C. §103(a) over Pocock in further view of Swenson and Garfinkle. Furthermore, claims 2-18 depend directly or indirectly from independent claim 1 and recite additional features thereof. As such and for at least the same reasons discussed above, Applicants submit that these dependent claims are not obvious and fully satisfy the requirements of 35 U.S.C. §103. Therefore, Applicants respectfully submit that the Examiner's rejection of claims 1-18 should be withdrawn.

CONCLUSION

Thus, Applicants submit that all of the claims presently in the application, are non-obvious and patentable under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. or Steven M. Hertzberg at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 8/23/04

E J Wall

Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808